

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

October 20, 2011

In the Matter of D. A. LEDBETTER, JR., Minor.

No. 303077

Wayne Circuit Court

Family Division

LC No. 01-401636

Before: FORT HOOD, P.J., and HOEKSTRA and METER, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interests of the child. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). We review for clear error the trial court's decision terminating parental rights. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). We must give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(c)(i) ("[t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age") and (g) ("[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age"). At the time of the adjudication, respondent was homeless, using illegal drugs and alcohol, and involved in a relationship that included domestic violence. By the time of the termination hearing, respondent had not demonstrated the ability to maintain independent, stable housing. He was living with a girlfriend with whom he had an unstable relationship history. Respondent also never addressed his drug and alcohol issues. He failed to seek substance-abuse treatment or regularly submit court-ordered drug screens. The few drug screens he did submit were positive for marijuana. Respondent also never completed domestic-violence therapy sessions and was at one point terminated from counseling because of his noncompliance. He attended a few sessions of

individual counseling, but he never made enough progress to move on to family counseling. Respondent also never provided proof of his participation in parenting classes.

Respondent argues that he was involved in services and making progress on his treatment plan, but needed more time. The trial court record does not support this argument. Respondent's participation in services was minimal. Respondent was, for the most part, noncompliant with his treatment plan. A parent's failure to comply with the treatment plan is evidence of his failure to provide proper care and custody for the child. *In re JK*, 468 Mich at 214. Moreover, he did not benefit from services to the point where he could safely parent. To retain parental rights, a parent must benefit from the services offered so that he or she can improve parenting skills to the point where the child would no longer be at risk in the parent's custody. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005), superseded in part on other grounds as stated in *In re Hansen*, 285 Mich App 158, 163; 774 NW2d 698 (2009), vacated on other grounds 468 Mich 1037 (2010).

Respondent further argues that termination of his parental rights was unnecessary because the trial court did not terminate the parental rights of the child's mother. This assertion is unpersuasive. Respondent's case is separate from that of the child's mother because they were not planning for his return together. Any additional time offered to respondent would only further delay permanency for the child. Thus, termination of respondent's parental rights under MCL 712A.19b(3)(c)(i) and (g) was proper.

Respondent also argues that the trial court erred in its best-interests determination. The record supports the trial court's conclusion that termination of respondent's parental rights was in the child's best interests. Because of his untreated problems and noncompliance with services, respondent was unable to care for his son; indeed, there was no evidence that respondent had the capacity or disposition to provide for the child's basic needs. It was in the child's best interests to be in a permanent and stable placement, which respondent could not provide. Permanency for the child was the primary priority, and without termination of respondent's parental rights permanency could not occur at a level needed for the child's benefit.

Respondent argues that the trial court's written and oral decisions lacked any specific findings of fact as required by MCR 3.977(I)(1). While the trial court should have provided at least a brief finding explaining its conclusions, under MCR 2.613(A) a trial court's error in issuing a ruling or order, or an error in the proceedings, is not grounds for reversing or "otherwise disturbing" the trial court's ruling "unless refusal to take this action appears to the court inconsistent with substantial justice." In this case, substantial justice is served by affirming the decision of the trial court. Respondent had not addressed his longstanding addiction or domestic-violence issues. His failure to participate in services or regularly visit his son evidenced a lack of motivation to change. There was ample evidence to support the court's conclusions. Thus, any error committed by the trial court when it failed to make specific factual findings was harmless.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Joel P. Hoekstra
/s/ Patrick M. Meter